IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1977 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAKASH SILK MILLS PVT LTD

Versus

BHARAT SANCHAR NIGAM LTD

Appearance:

1. Special Civil Application No. 1977 of 2002

M/S.VYAS ASSOCIATES for Petitioner No. 1

MR MUKESH R SHAH for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 05/09/2003

ORAL JUDGEMENT

Rule. Shri M.R. Shah learned Additional Standing Counsel for the Central Government for the

respondents waives service of rule.
At the request of the learned advocates, the petition is finally heard today.

2. The petitioner has been aggrieved by a telephone bill dated 23.07.2001 issued to it in relation to the facility given by respondent no.1 which is known as "Speech Circuit facility".

3. Learned Senior Counsel Shri Vyas appearing for the petitioner - Company has submitted that though the petitioner was to be given the said facility at the rate of Rs.2,644=00 per month with effect from 18.11.1981, the respondent - authorities had sent an exorbitant bill of Rs.3,97,484=00. As the said amount is unjust and improper, and as the charges for providing the said facility have been increased with retrospective effect, the demand letter/bill dated 23.07.2001 should be quashed and set aside.

4. It has been however, very fairly submitted by Senior counsel Shri Vyas that on the said subject, suit had been filed by the petitioner, which was subsequently dismissed because there was a provision with regard to Arbitration in Section 7-B of the Indian Telegraph Act, 1885. It has been also submitted by him that at present the dispute has already been referred to the Arbitrator on 24.10.2001.

4.1. On the other hand, learned advocate Shri M.R. Shah appearing for the respondent - authorities has submitted that under the pretext of the illegality of the said bill, the petitioner - Company is not paying its charges at an enhanced rate and several defaults have been committed by the petitioner - Company.

5. Looking to the fact that the dispute has already been referred to the Arbitrator, it would be just and proper to direct the Arbitrator to come to a final conclusion as soon as possible and preferably within a period of three months from the date of the receipt of this order.

6. In the meantime, it is directed that the bill amount for Rs.3,97,484=00 dated 23.07.2001 which has been subsequently reduced to Rs.2,40,542=00 need not be paid by the petitioner - Company, but the petitioner - Company should start paying charges at an enhanced rate with effect from 01.05.2002. Needless to say that this arrangement is without prejudice to the rights of the parties. The respondent - authorities shall forward the

necessary bill to the above effect after making necessary calculations to the petitioner and upon receipt of the revised bill, the petitioner - Company shall make payment of the said bill within a period of 15 days from the receipt of the bill. Needless to say, this arrangement is only on an ad-hoc basis and it has been made so as to see that the respondent - authorities are not deprived of the charges which they have to recover from the petitioner.

If the amount as stated hereinabove is paid by the petitioner, the facility which is being given to the petitioner - Company by the respondent - authorities shall not be disconnected.

Subject to the above directions, the petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs. Ad-interim relief granted earlier by this Court stands modified accordingly.

[A.R. DAVE, J.]

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